


PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	Richard F. O'Day		
Serial No.:	10/735,971	Examiner:	P. Kim
Filed:	December 15, 2003	Group Art Unit:	2652
Title:	Method for Making a Disc Drive		
Docket No.:	STL7650.00		

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Attn: Director, Group 2600 Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Certificate of Transmission/Mailing I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. box 1450, Alexandria, VA 22313-1450 on the date shown below: <div style="display: flex; justify-content: space-between;"> <div> <u>Zeina Gittlein</u> Printed Name </div> <div>  Signature </div> <div> <u>November 3, 2006</u> Date </div> </div>
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PETITION TO WITHDRAW RESTRICTION REQUIREMENT

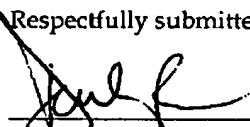
1. A Restriction Requirement was mailed to Petitioner on April 24, 2006 requiring election between Group I (claims 1-21) and Group II (claims 22-39) on the basis that (a) the two inventions are related as combination and subcombination, respectively; and (b) they represent "recognized divergent subject matter" by virtue of their separate classification in class 29, subclasses 603.01 and 606, respectively.
2. In a response mailed to the PTO on May 24, 2006, Petitioner elected Group I with traverse.
3. An Office action was mailed to Petitioner on August 3, 2006 in which Petitioners' arguments were deemed unpersuasive and the Restriction Requirement was made final. Claims 22-39 were withdrawn from consideration by the Examiner.
4. A response to the August 3, 2006 Office action on the merits is being filed today, November 3, 2006, concurrent with this Petition.
5. Petitioner submits that the Restriction Requirement is improper for the following reasons:
 - (a) The inventions of Groups I and II do not have a combination/subcombination relationship. They in fact claim the same invention, using language of varying breadth to describe the various features of the invention. They are both directed to a method for making disc drives, and more specifically to positioning of an upper voice coil magnet relative to a lower voice coil magnet. Two-way distinctness does not exist between Groups I and II. The rationales offered by the Office in the Restriction Requirement point out only differences in language between the claims, and not actual differences between the claimed methods.
 - (b) The inventions of Groups I and II are not legitimately separately classifiable as suggested by the Office and cannot therefore reasonably be considered to represent "recognized divergent subject matter." In the Restriction Requirement, the Office has arbitrarily assigned differing subclasses to each Group; however, it is clear that this was done only for the purpose of creating distinction from whole cloth where none previously existed.
 - (i) Class 29, subclass 603.01 encompasses manufacture of magnetic recording transducers; neither Group I nor Group II is reasonably classifiable here as the application is in no way related to transducer manufacture.
 - (ii) Class 29, subclass 606 is a subset of subclass 603.01, encompassing manufacture of magnetic recording transducers by assembling transducer coil and core; neither Group I nor Group II is reasonably classifiable here as the application is in no way related to transducer manufacture.

6. For reasons set forth above, Petitioner respectfully requests that the Examiner be directed to withdraw the Restriction Requirement of April 24, 2006, and that the Examiner further be directed to fully consider claims 22-39 of the above-identified application.
7. It is believed that no fee is required for filing of this Petition. However, if a fee is in fact required, authorization is hereby made to charge the required amount to Deposit Account No. 19-1038.

Please charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

November 3, 2006
Date

Respectfully submitted,


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